

1982 WL 189298 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 19, 1982

*1 Honorable Ryan C. Shealy
Member
South Carolina Senate
513 Gressette Building
Columbia, South Carolina 29202

Dear Senator Shealy:

Your letter of May 17, 1982, inquires as follows:

‘When an election has been held by the Delegation, but results not announced, would it be legal to reconsider the vote?’

While I am not advised as to the particular election with which you are concerned, those elections which are made by the Legislative Delegations are, to my knowledge, not subject to Rules of Parliamentary Procedure. Reconsideration of a vote may, nevertheless, be proper in appropriate circumstances, but the courts appear to follow the principle that there must be finality of decision and that reconsideration of an action on motion of one who has voted on the prevailing side is not favored. The answer to this question is, therefore, in my opinion, that reconsideration would not normally be proper unless prompted by ministerial errors or defects, but to reconsider a vote of election merely for the purpose of affording an opportunity for another vote upon a matter already decided would not, in my opinion, be proper.

You additionally inquire:

‘What could be the ramifications of one who would have been elected (but) is, upon reconsideration, not elected?’

One who has been elected by a proper vote and without the appearance of clerical or ministerial errors could validly complain that the electing body improperly reconsidered a vote whereby he had been previously declared elected even though the result of that election had not been announced. Depending upon the circumstances that existed, an estoppel on the part of the electing body could most probably be asserted.

Very truly yours,

Daniel R. McLeod
Attorney General

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